

REMARKS

This application has been reviewed in light of the non-final Office Action mailed on October 28, 2009. Claims 1-20 are pending in the application with Claims 1, 15, and 19 being in independent form. By the present Amendment, Claims 1, 15, and 19 have been amended.

Claims 1, 15 and 19 were rejected under 35 U.S.C. 112, first paragraph. It is respectfully submitted that “transmission rate” is well known in the art as a transmitter parameter. The specification states that “one or more transmitter parameters may be adjusted” (see paragraph 0013 of the published application US 2008/0232291A1. One skilled in the art would reasonably infer from this statement that “transmission rate” may be adjusted, since transmission rate is a known transmitter parameter. However, in order to expedite the prosecution of the present application, Claims 1, 15 and 19 have been amended. In particular, Claims 1, 15 and 19 have been amended to recite “wherein the subsequent transmitter behaviour includes adjusting at least one transmitter parameter of the first station such that the at least one transmitter parameter corresponding to the at least two non-contiguous ones of the quality ranges is identical.”

Support for the claim amendments is found, for example, in Applicants’ published patent application US 2008/0232291A1 paragraph 0013 where it states “Additionally one or more transmitter parameters may be adjusted. Examples of such parameters are number of retransmissions, transmit power, spreading factor, code rate and modulation scheme.” Accordingly, withdrawal of the rejection is respectfully requested.

Claims 1, 15 and 19 were rejected under 35 U.S.C. 112, second paragraph. The Examiner states that these claims include the term “non-contiguous” which is allegedly not defined anywhere in the specification. The rejection is respectfully traversed. There is no requirement that the Applicants define claim terms in the specification.

The Court of Appeals for the Federal Circuit has stated that during examination the USPTO must give claims their broadest reasonable interpretation in light of the specification. This means that the words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). In the present application, the term “non-contiguous” in Claims 1, 15 and 19 should be given its plain meaning, since the plain meaning is not inconsistent with the specification. The term “non-contiguous” is used by the Applicants to mean the same thing in the specification and in the claims. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 1-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. (US 2002/0003798A1), hereinafter referenced as Sato, in view of Hwang et al. (US 2002/0168945A1) hereinafter referenced as Hwang et al. Specifically, the Examiner states that Sato et al. discloses the limitations of Claims 1, 15 and 19 except that the subsequent transmitter behavior corresponding to at least two non-contiguous ones of the quality ranges is identical with respect to at least a transmission rate.

Applicants have amended Claims 1, 15, and 19 in response to the rejection under 35 U.S.C. 112, first paragraph, as discussed above. The newly added claim language also overcomes the rejection under 35 U.S.C. 103(a). Neither Sato et al. nor Hwang et al. disclose or suggest at least “wherein the subsequent transmitter behaviour includes adjusting at least one transmitter parameter of the first station such that the at least one transmitter parameter corresponding to the at least two non-contiguous ones of the quality ranges is identical,” as recited by Applicants’ Claim 1 and similarly recited by Applicants’ Claims 15 and 19.

Sato et al. is directed to a multicast service from an information delivery apparatus to wireless terminals through wireless routes. Sato et al. teaches that each quality range of each multicast corresponds to a different transmission rate (Para 0072, Figs. 10, 15). Sato et al. does not disclose or suggest the claim limitations currently recited by Applicants' independent Claims 1, 15 and 19. Specifically, Sato et al. does not disclose or suggest "wherein the subsequent transmitter behaviour includes adjusting at least one transmitter parameter of the first station such that the at least one transmitter parameter corresponding to the at least two non-contiguous ones of the quality ranges is identical," as currently recited by Applicants' independent Claim 1, and similarly recited by Applicants' independent Claims 15 and 19.

Hwang et al. is directed to a method for controlling the transmission of data in a radio communications system. The signals transmitted from the receiver to the transmitter are composed of more than 2-bit multiplexed information. Hwang et al. does not disclose or suggest that the signals transmitted are identical with respect to the data packet transmitted and at least a transmit power of the transmitted data packet as currently recited by Applicants' independent Claims 1, 15 and 19. Specifically, Hwang et al. does not disclose or suggest "wherein the subsequent transmitter behaviour includes adjusting at least one transmitter parameter of the first station such that the at least one transmitter parameter corresponding to the at least two non-contiguous ones of the quality ranges is identical," as currently recited by Applicants' independent Claim 1, and similarly recited by Applicants' independent Claims 15 and 19.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. 103(a) be withdrawn with respect to independent Claims 1, 15 and 19 and these claims be allowed.

Dependent Claims 2-14, 16-18 and 20 depend from independent Claim 1, 15 or 19, and therefore include the limitations of independent Claims 1, 15 and 19. Thus, for at least their

dependency from either independent Claim 1, 15 or 19, dependent Claims 2-14, 16-18 and 20 are patentably distinct over Sato and Hwang et al., taken alone or in any proper combination. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. 103(a) be withdrawn with respect to dependent Claims 2-14, 16-18 and 20 and these claims be allowed.

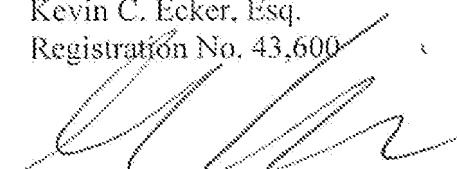
In view of the foregoing amendments and remarks, it is respectfully submitted that all the claims presently pending in the application are believed to be in condition for allowance.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to contact the undersigned.

Respectfully submitted,

Kevin C. Ecker, Esq.
Registration No. 43,600

George Likourelos
Reg. No. 40,067
Attorney for Applicants
631-501-5706



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By:

Mail all correspondence to:
Kevin C. Ecker, Esq.
Senior IP Counsel
Philips Electronics North America Corp.
P.O. Box 3001
Briarcliff Manor, New York 10510-8001
Phone: (914) 333-9618